

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Andrew Yang, individually and on behalf
of all others similarly situated, et. al.

Plaintiffs,

v.

New York State Board of Elections,

Defendant.

ECF CASE

CIVIL ACTION:

AFFIDAVIT OF ANDREW YANG


Andrew Yang, under the pains and penalties of perjury, states as follows:

1. I am the plaintiff, individually and on behalf of all others similarly situated plaintiffs (“Plaintiffs”), in this case. I submit this Affidavit in support of Plaintiffs’ EMERGENCY ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER.
2. I reside in New York County am an active and registered New York State Democratic Party voter.
3. On November 6, 2017 I filed forms with the Federal Election Commission to announce that I would be a Democratic Party candidate for the elected office of President of the United States (Friends of Andrew Yang, FEC Committee No. C00659938, as amended March 13, 2020).
4. Despite raising over \$41 million dollars and spending nearly the same, my campaign had disappointing results in the Iowa and New Hampshire Democratic Presidential Primaries.
5. In February 2020, after more than two years of campaigning every day, I decided to suspend my campaign. By suspending my campaign, I no longer desired to actively raise and spend funds for my candidacy without a clear path to victory for the nomination as the Democratic Party’s Presidential Candidate. This suspension was not a termination.

6. By suspending my campaign and ceasing to raise funds for my committee, I nonetheless believed and expected that my name would nonetheless stay on the ballot in states with upcoming elections as my campaign had met the legal requirements and it was my intention and hope that voters would express their preferences by voting in the upcoming elections.
7. My campaign, consisting of hundreds paid workers and thousands of volunteers, worked tirelessly for months to put my name on the ballot in each of the fifty states and we were successful in all but one due to a technical filing error in the State of Ohio where I nonetheless campaigned as a write-in candidate.
8. In New York, after thousands upon thousands of hours of mostly volunteer labor collecting signatures from registered New York State Democratic Party voters in the cold months of January and February, and spending thousands of dollars on legal fees and paid labor to supervise volunteer work, we filed on or around February 3 and 6, 2020 over 20,000 signatures of registered Democratic Party voters with the New York State Board of Elections that nominated me to the office of President of the United States so that my name would appear on the ballot for the April 28, 2020 Democratic Presidential primary election.
9. Due to the Covid-19 pandemic, the April 28 Democratic Presidential Primary was postponed until June 23, 2020, the date for other scheduled federal and state and local elections.
10. On April 27, the New York Board of Elections Commissioners voted unanimously to permanently cancel the New York 2020 Democratic Presidential primary.
11. It is my belief that this action by NYS BOE violates my rights, both as a candidate and a voter, under the Constitution of the State of New York, the New York Election Law and the Constitution of the United States in that I and my campaign met all the requirements and then some to be a candidate under the New York Election Law.
12. More importantly, while I am no longer actively seeking the office of President of the United States, it is my belief that this arbitrary decision of the NY BOE disenfranchises both myself as a voter in the State of New York and a candidate for the office of President, but also those persons who met the requirements under the NY Election Law to be delegates pledged to my candidacy at the Democratic Party National Convention and every registered Democratic Party voter in the State of New York who now, because of the BOE's capricious actions, no longer have the right to exercise their right to vote in the 2020 Democratic Presidential Primary whom I choose to represent as a class. Despite the seriousness of the ongoing pandemic and its threat to human health and safety, it is my belief that New York State should hold a Democratic Presidential primary alongside federal congressional elections, NY State Elections for Senate and Assembly and local races (as still planned for June 23, 2020) in a manner safe for voters and election workers alike so as to not disenfranchise the more than six million registered voters in New York State.

WHEREFORE, your affirrant respectfully requests that this Court enter a judgement against Defendant NYS BOE enjoining them from canceling the June 23 Democratic Presidential Primary and such reinstating such election and grant Plaintiffs costs and fees and such other and further relief as this Court deems just and proper. This Affidavit is being executed electronically.

Dated: New Paltz, New York
April 28, 2020

By: 
Andrew Yang
Plaintiff and Candidate for President of the
United States of America